

answer the bill, or so much thereof as may be covered by the plea or demurrer, at such time as, consistently with justice and the rights of the defendant, the same can be reasonably done; in default whereof, the bill shall be taken, as against him *pro confesso*, and the matter thereof proceeded in and decreed accordingly; and such decree shall also be made when the court or judge thereof shall be satisfied that the plea or demurrer was interposed for vexation or delay merely, and is frivolous or unfounded.

Where a demurrer is accompanied by an affidavit that it was not intended for delay and the decree does not indicate that the truth of the statement was doubted by the court, the prayer of the bill should not be granted immediately without giving the defendants an opportunity to answer and be heard on the merits. *Didier v. Merryman*, 114 Md. 434.

Cited but not construed in *Stinson v. Ellicott City, etc., Co.*, 109 Md. 115.

1904, art. 16, sec. 154. 1888, art. 16, sec. 141. 1860, art. 16, sec. 102.  
1785, ch. 72, sec. 25. 1888, ch. 486.

**163.** Upon any plea or demurrer being overruled, upon argument or otherwise, or being withdrawn without leave of the court, the party whose demurrer or plea is so overruled or withdrawn shall pay to the opposite party the sum of ten dollars, and the costs thereof, and be in contempt until the said sum of money and costs are fully paid, unless the court shall otherwise specially order.

The uniform practice is upon overruling a plea or demurrer, to grant leave or require the defendants to answer within a limited time, and they should not be deprived of the privilege because of an unsuccessful appeal. *Trego v. Skinner*, 42 Md. 433; *Collateral, etc., Bank v. Fowler*, 42 Md. 402; *Seebold v. Lockner*, 30 Md. 137.

A defendant who is in contempt under this section, has no right to file an answer, and if he does so the same will not be considered. If, however, the fines and costs are paid before appeal taken, the answer will be considered so as to entitle the defendant to appeal from an order granting an injunction—see article 5, section 27. *Gilbert v. Arnold*, 30 Md. 35.

A defendant may appeal from an order overruling a demurrer to a bill although it does not affirmatively appear that he has paid the ten dollars required by this section. *Stinson v. Ellicott City, etc., Co.*, 109 Md. 113.

An order held to be in strict conformity with this section, and the costs put upon the defendant, to be limited to those accruing on the demurrer. *Dennison v. Yost*, 61 Md. 142.

Where a plea is ruled sufficient, no costs are taxed against the complainant. *Carroll v. Waring*, 3 G. & J. 503.

This section referred to in deciding that a demurrer to the whole bill, is an answer within the meaning of article 5, sec. 27. *Baltimore v. Weatherby*, 52 Md. 448.

Where a defendant overrules his plea by filing an answer, this section applies. *Bank of Maryland v. Dugan*, 2 Bl. 257.

Cited but not construed in *Wagner v. Shank*, 59 Md. 327; *Shipley v. Ritter*, 7 Md. 416. And see *Worthington v. Lee*, 2 Bl. 685.

*Ibid.* sec. 155. 1888, art. 16, sec. 142. Rule 23.

**164.** The defendant shall make answer to all the material allegations of the bill, except as hereinafter provided; and the answer shall be divided into paragraphs, numbered consecutively, each paragraph containing, as near as may be, a separate and distinct averment. The rule, that if the defendant submits to answer, he shall answer fully to all the matters of the bill, shall not apply in cases where he might,